## REMARKS

The Final Office Action dated September 24, 2010, has been received and reviewed. Claims 1-25 and 27-32 are pending in the subject application. All claims stand rejected. Each of claims 1, 15, 21, and 31 has been amended herein. Accordingly, claims 1-25 and 27-32 remain pending. Care has been exercised to introduce no new matter. Applicants respectfully request reconsideration of the present Application in view of the above amendments and the following remarks.

**Rejections based on 35 U.S.C. § 103(a)**

A. Applicable Authority

Title 35 U.S.C. § 103(a) declares that a patent shall not issue when "the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains." The Supreme Court in *Graham v. John Deere* counseled that an obviousness determination is made by identifying the scope and content of the prior art, the level of ordinary skill in the prior art, the differences between the claimed invention and prior art references, and secondary considerations. *Graham v. John Deere Co.*, 383 U.S. 1 (1966).

To support a finding of obviousness, the initial burden is on the Office to establish the clear articulation of the reason(s) why the claimed invention would have been obvious. *See* MPEP § 2142. The analysis supporting a rejection under 35 U.S.C. 103 should be made explicit. *See* MPEP § 2143; *See also KSR v. Teleflex*, 127 S. Ct. 1727 (2007). In determining the differences between the prior art and the claims, the question under 35 U.S.C. 103 is not whether

the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious. *See* MPEP § 2141.02(I).

To reach a proper determination of obviousness, the Examiner must step backward in time and into the shoes worn by the hypothetical "person of ordinary skill in the art" when the invention was unknown and just before it was made. In view of all factual information, the Examiner must then determine whether the claimed invention "as a whole" would have been obvious at that time to that person. Knowledge of applicant's disclosure must be put aside in reaching this determination. Impermissible hindsight must be avoided and the legal conclusion must be reached on the basis of the facts gleaned from the prior art. *See* MPEP § 2142.

B. Rejection of claims 1, 2, 4-11, 13, and 15-18

Claims 1, 2, 4-11, 13, and 15-18 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 7,047,502 to Petropoulos et al. (hereinafter the "Petropoulos reference") in view of U.S. Patent No. 5,991,735 to Gerace (hereinafter the "Gerace reference") further in view of U.S. Publication No. 2002/0023077 to Nguyen et al. (hereinafter the "Nguyen reference"). As a *prima facie* case of obviousness cannot be established for the rejected claims based upon the Petropoulos, Gerace, and Nguyen references, either alone or in combination, Applicants respectfully traverse this rejection.

Independent claim 1, as amended herein, is directed to a computing device associated with a service provider, wherein the computing device facilitates providing a computer implemented system that enhances paid inclusion listings. In particular, claim 1 recites, in part, a reporting component that generates an enhancement component matrix for facilitating enhancement selection by the paid inclusion customer and that provides the enhancement component matrix to the paid inclusion customer, wherein the enhancement

component matrix includes: a plurality of rows, a first one of the plurality of rows corresponding to the paid inclusion listing; and a plurality of columns, each of the plurality of columns corresponding to an enhancement option that affects a display of the paid inclusion listing within a search results display.

The Petropoulos reference, on the other hand, is directed to offering previews of information to users when users navigate a computer-pointing device over a pre-designated area of a search result page. *See e.g.*, Petropoulos Reference, Abstract. While browsing the search result page, user behavior may be monitored to improve relevancy of search results. *Id.*

With respect to independent claim 1, the Petropoulos reference fails to teach or suggest a reporting component that generates an enhancement component matrix for facilitating enhancement selection by the paid inclusion customer and that provides the enhancement component matrix to the paid inclusion customer, wherein the enhancement component matrix includes: a plurality of rows, a first one of the plurality of rows corresponding to the paid inclusion listing; and a plurality of columns, each of the plurality of columns corresponding to an enhancement option; and an indication in each row-column pair that indicates whether the corresponding enhancement option was applied to the corresponding paid inclusion listing. *See Final Office Action dated 9/24/2010*, p. 4. As such, Applicants respectfully submit that the Petropoulos reference cannot teach or suggest a reporting component that generates an enhancement component matrix for facilitating enhancement selection by the paid inclusion customer and that provides the enhancement component matrix to the paid inclusion customer, wherein the enhancement component matrix includes: a plurality of rows, a first one of the plurality of rows corresponding to the paid inclusion listing; and a plurality of columns, each of

the plurality of columns corresponding to an enhancement option that affects a display of the paid inclusion listing within a search results display, as recited in independent claim 1.

The Gerace reference fails to overcome this deficiency of the Petropoulos reference, nor is it relied upon for doing so. Rather, the Gerace reference is also clearly stated to fail to teach or suggest a reporting component that generates an enhancement component matrix for facilitating enhancement selection by the paid inclusion customer and that provides the enhancement component matrix to the paid inclusion customer, wherein the enhancement component matrix includes: a plurality of rows, a first one of the plurality of rows corresponding to the paid inclusion listing; and a plurality of columns, each of the plurality of columns corresponding to an enhancement option; and an indication in each row-column pair that indicates whether the corresponding enhancement option was applied to the corresponding paid inclusion listing. *See Final Office Action dated 9/24/2010*, p. 4. As such, Applicants respectfully submit that the Petropoulos reference cannot teach or suggest a reporting component that generates an enhancement component matrix for facilitating enhancement selection by the paid inclusion customer and that provides the enhancement component matrix to the paid inclusion customer, wherein the enhancement component matrix includes: a plurality of rows, a first one of the plurality of rows corresponding to the paid inclusion listing; and a plurality of columns, each of the plurality of columns corresponding to an enhancement option that affects a display of the paid inclusion listing within a search results display, as recited in independent claim 1.

The Nguyen reference also fails to overcome the deficiencies of the Petropoulos reference. The Nguyen reference is directed to an integrated method for searching and reporting the search of electronic data files by receiving a plurality of search concepts from a user, forming

the search concepts into a two-dimensional matrix of paired concepts, searching databases for the paired concepts, and identifying the results. *See e.g.*, Nguyen Reference, Abstract. In particular, each search input may be associated with a row or a column. *Id.* at ¶ [0068]. Each search query is associated with a number of "hits" including a number of documents in a search. *Id.*

A specific example is provided in FIG. 2 of the Nguyen reference. A search term "heart" is a "row concept" associated with 15 hits. Another "row" entry is "eyes" and is associated with one hit. A "column concept" in FIG. 2 is "hypertension" and is associated with eight hits. Once the search terms are organized into rows and columns, a search is performed using "every possible pair of a row concept and a column concept." *Id.* at ¶ [0072]. Thus, for example, a paired search would include "heart" as a row concept and "hypertension" as a column concept. *Id.* at ¶ [0074]. This is in no way the enhancement component matrix described in independent claim 1. Rather, this simply organizes search inputs such that a user can easily identify searches that have been performed and results if searches are combined. At no point does the Nguyen reference teach or suggest an enhancement component matrix that includes a plurality of rows corresponding to paid inclusion listings; a plurality of columns corresponding to enhancement options that that affect the display of the paid inclusion listing within a search results display; and an indication of what enhancement option is applied to each paid inclusion listing.

In view of the above, it is respectfully submitted that the Petropoulos reference fails to teach or suggest all of the elements of independent claim 1, as amended herein, and that the Gerace and Nguyen references fail to overcome the deficiencies of the Petropoulos reference. Therefore, it is respectfully submitted that a *prima facie* case of obviousness for independent claim 1 cannot be established based upon the asserted references, either alone or in combination.

As such, withdrawal of the 35 U.S.C. § 103(a) rejection of independent claim 1 is respectfully requested for at least the above-cited reasons.

As claims 2, 4-11, and 13 depend, either directly or indirectly, from amended independent claim 1, withdrawal of the § 103(a) rejection of these claims is requested as well. *See In re Fine*, 5 USPQ 2d 1596, 1600 (Fed. Cir. 1988) (a dependent claim is obvious only if the independent claim from which it depends is obvious); *see also*, MPEP § 2143.03.

Independent claim 15, as amended herein, is directed to a computing device associated with a service provider, wherein the computing device facilitates providing a system that facilitates enhancing paid inclusion listings without adversely affecting ordering rights of the listings. In particular, claim 15 recites, in part, a reporting component that provides reports to the paid inclusion customer regarding the paid inclusion listing and performance thereof, wherein at least one of the reports includes an enhancement component matrix for facilitating enhancement selection by the paid inclusion customer, wherein the enhancement component matrix includes: a plurality of rows, a first one of the plurality of rows corresponding to the paid inclusion listing; a plurality of columns, each of the plurality of columns corresponding to an enhancement option that affects a display of the paid inclusion listing within a search results display; and an indication in each row-column pair that indicates whether the corresponding enhancement option was applied to the corresponding paid inclusion listing.

Independent claims 1 and 15 recite generally similar claim limitations. Therefore, the above arguments regarding independent claim 1 apply with equal force to independent claim15. As such, for the reasons set forth above with respect to independent claim 1, Applicants respectfully request withdrawal of the rejection of independent claim 15.

As claims 16-18 depend, either directly or indirectly, from amended independent claim 15, withdrawal of the § 103(a) rejection of these claims is requested as well. *See In re Fine*, 5 USPQ 2d 1596, 1600 (Fed. Cir. 1988) (a dependent claim is obvious only if the independent claim from which it depends is obvious); *see also*, MPEP § 2143.03

C. Rejection of claims 3 and 19

Claims 3 and 19 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over the Petropoulos reference in view of the Gerace and Nguyen references and further in view of U.S. Patent No. 7,337,910 to Cartmell et al. (hereinafter the "Cartmell reference"). Each of claims 3 and 19 depend from one of independent claims 1 and 15. As such, Applicants respectfully request withdrawal of the 35 U.S.C. § 103(a) rejection of these claims for at least the above-cited reasons. *See, In re Fine*, 5 USPQ 2d 1596, 1600 (Fed. Cir. 1988) (a dependent claim is obvious only if the independent claim from which it depends is obvious).

D. Rejection of claims 12 and 14

Claims 12 and 14 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over the Petropoulos reference in view of the Gerace and Nguyen references and further in view of U.S. Publication No. 2004/0059720 to Rodriguez. Each of claims 12 and 14 depend from independent claim 1. As such, Applicants respectfully request withdrawal of the 35 U.S.C. § 103(a) rejection of these claims for at least the above-cited reasons. *See, In re Fine*, 5 USPQ 2d 1596, 1600 (Fed. Cir. 1988) (a dependent claim is obvious only if the independent claim from which it depends is obvious).

E. Rejection of claim 20

Claim 20 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over the Petropoulos reference in view of the Gerace and Nguyen references and further in view of

U.S. Publication No. 2007/0016491 to Wang et al. (hereinafter the "Wang reference"). Claim 20 depends from independent claim 15. As such, Applicants respectfully request withdrawal of the 35 U.S.C. § 103(a) rejection of this claims for at least the above-cited reasons. *See, In re Fine*, 5 USPQ 2d 1596, 1600 (Fed. Cir. 1988) (a dependent claim is obvious only if the independent claim from which it depends is obvious).

F. Rejection of claims 21-23 and 27-30

Claims 21-23 and 27-30 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over the Petropoulos reference in view of the Cartmell reference and further in view of the Nguyen reference. As a *prima facie* case of obviousness cannot be established for the rejected claims based upon the Petropoulos, Cartmell, and Nguyen references, either alone or in combination, Applicants respectfully traverse this rejection.

Independent claim 21, as amended herein, is directed to one or more computer storage media having computer-executable instructions embodied thereon for performing a method of facilitating aesthetically improving paid inclusion listings while maintaining ordering rights. In particular, claim 21 recites, in part, reporting performance of the at least one paid inclusion listing to the paid inclusion customer to facilitate optimizing listing performance and revenues, wherein said reporting includes generating an enhancement component matrix and providing said matrix to the paid inclusion customer, said matrix comprising: at least one row corresponding to the at least one paid inclusion listing; and a first column corresponding to the paid inclusion customer selected enhancement option that affects a display of the at least one paid inclusion listing within a search results display, wherein the first column includes an indication that the corresponding paid inclusion customer selected enhancement option was applied to the at least one paid inclusion listing.

The Petropoulos and Cartmell reference fail to teach or suggest reporting performance of the at least one paid inclusion listing to the paid inclusion customer to facilitate optimizing listing performance and revenues, wherein said reporting includes generating an enhancement component matrix and providing said matrix to the paid inclusion customer, said matrix comprising: at least one row corresponding to the at least one paid inclusion listing; and a first column corresponding to the paid inclusion customer selected enhancement option. *See Final Office Action dated 9/24/2010*, p. 18. As such, Applicants respectfully submit that the Petropoulos and Cartmell references also fail to teach or suggest reporting performance of the at least one paid inclusion listing to the paid inclusion customer to facilitate optimizing listing performance and revenues, wherein said reporting includes generating an enhancement component matrix and providing said matrix to the paid inclusion customer, said matrix comprising: at least one row corresponding to the at least one paid inclusion listing; and a first column corresponding to the paid inclusion customer selected enhancement option that affects a display of the at least one paid inclusion listing within a search results display, wherein the first column includes an indication that the corresponding paid inclusion customer selected enhancement option was applied to the at least one paid inclusion listing, as recited in independent claim 21.

For the same reasons set forth above with respect to independent claim 1, the Nguyen reference also fails to teach or suggest reporting performance of the at least one paid inclusion listing to the paid inclusion customer to facilitate optimizing listing performance and revenues, wherein said reporting includes generating an enhancement component matrix and providing said matrix to the paid inclusion customer, said matrix comprising: at least one row corresponding to the at least one paid inclusion listing; and a first column corresponding to the

paid inclusion customer selected enhancement option that affects a display of the at least one paid inclusion listing within a search results display, wherein the first column includes an indication that the corresponding paid inclusion customer selected enhancement option was applied to the at least one paid inclusion listing.

In view of the above, it is respectfully submitted that the Petropoulos reference fails to teach or suggest all of the elements of independent claim 21, as amended herein, and that the Cartmell and Nguyen references fail to overcome the deficiencies of the Petropoulos reference. Therefore, it is respectfully submitted that a *prima facie* case of obviousness for independent claim 21 cannot be established based upon the asserted references, either alone or in combination. As such, withdrawal of the 35 U.S.C. § 103(a) rejection of independent claim 21 is respectfully requested for at least the above-cited reasons.

As claims 22, 23, and 27-30 depend, either directly or indirectly, from amended independent claim 21, withdrawal of the § 103(a) rejection of these claims is requested as well. *See In re Fine*, 5 USPQ 2d 1596, 1600 (Fed. Cir. 1988) (a dependent claim is obvious only if the independent claim from which it depends is obvious); *see also*, MPEP § 2143.03.

G. Rejection of claims 24 and 25

Claims 24 and 25 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over the Petropoulos reference in view of the Cartmell and Nguyen references and further in view of the Gerace reference. Each of claims 24 and 25 depend from independent claim 21. As such, Applicants respectfully request withdrawal of the 35 U.S.C. § 103(a) rejection of this claims for at least the above-cited reasons. *See, In re Fine*, 5 USPQ 2d 1596, 1600 (Fed. Cir. 1988) (a dependent claim is obvious only if the independent claim from which it depends is obvious).

H. Rejection of claims 31 and 32

Claims 31 and 32 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over the Petropoulos reference in view of the Nguyen reference. As a *prima facie* case of obviousness cannot be established for the rejected claims based upon the Petropoulos, and Nguyen references, either alone or in combination, Applicants respectfully traverse this rejection.

Independent claim 31, as amended herein, is directed to one or more computer storage media having computer-executable instructions embodied thereon for performing a method of facilitating optimizing enhanced listing performance. In particular, claim 31 recites, in part, receiving an indication from the paid inclusion customer that assistance is required to make an enhancement selection, wherein the enhancement selection includes a selection of at least one enhancement option to be applied to a paid inclusion listing upon rendering the paid inclusion listing for display on a user's display device; enhancing the first paid inclusion listing with a first enhancement selection generated by the service provider; enhancing the second paid inclusion listing with a second enhancement selection, wherein the second enhancement selection is generated by the service provider, the second enhancement selection being different from the first enhancement selection such that the second paid inclusion listing has a different appearance when displayed on a user's display device than the first paid inclusion listing when displayed on a user's display device providing the plurality of search results to the plurality of users; generating an updated enhancement component matrix, wherein said generating includes: adding an indication in each row-column pair that indicates whether the corresponding enhancement option was applied to the corresponding paid inclusion listing; and adding a plurality of additional columns, each of the plurality of additional columns corresponding to user

historical data associated with a paid inclusion listing performance attribute; and providing the updated enhancement component matrix to the paid inclusion customer.

The Petropoulos reference fails to teach or suggest generating an enhancement component matrix and generating an updated enhancement component matrix. *See Final Office Action dated 9/24/2010*, p. 23.

For the same reasons set forth above with respect to independent claim 1, ,the Nguyen reference fails to overcome the deficiencies of the Petropoulos reference as it, too, fails to teach or suggest generating an updated enhancement component matrix, wherein said generating includes: adding an indication in each row-column pair that indicates whether the corresponding enhancement option was applied to the corresponding paid inclusion listing; and adding a plurality of additional columns, each of the plurality of additional columns corresponding to user historical data associated with a paid inclusion listing performance attribute; and providing the updated enhancement component matrix to the paid inclusion customer.

In view of the above, it is respectfully submitted that the Petropoulos reference fails to teach or suggest all of the elements of independent claim 31, as amended herein, and that the Nguyen reference fails to overcome the deficiencies of the Petropoulos reference. Therefore, it is respectfully submitted that a *prima facie* case of obviousness for independent claim 31 cannot be established based upon the asserted references, either alone or in combination. As such, withdrawal of the 35 U.S.C. § 103(a) rejection of independent claim 31 is respectfully requested for at least the above-cited reasons.

As claim 32 depends directly from amended independent claim 31, withdrawal of the § 103(a) rejection of this claim is requested as well. *See In re Fine*, 5 USPQ 2d 1596, 1600

(Fed. Cir. 1988) (a dependent claim is obvious only if the independent claim from which it depends is obvious); *see also*, MPEP § 2143.03.

## CONCLUSION

For at least the reasons stated above, claims 1-25 and 27-32 are believed to be in condition for allowance. Applicants respectfully request withdrawal of the pending rejections and allowance of the claims. If any issues remain that would prevent issuance of this application, the Examiner is urged to contact the undersigned – 816-474-6550 or asturgeon@shb.com (such communication via email is herein expressly granted) – to resolve the same.

Submitted herewith is a Request for Continued Examination and a Request for a One-Month Extension of Time, along with the appropriate fees. It is believed that no additional fee is due. However, if this belief is in error, the Commissioner is hereby authorized to charge any amount required to Deposit Account No. 19-2112 with reference to Attorney Docket Number 306416.01/MFCP.150262.

Respectfully submitted,

/ASHLEY N. STURGEON/

Ashley N Sturgeon
Reg. No. 64,819

ANLZ/bp
SHOOK, HARDY & BACON L.L.P.
2555 Grand Blvd.
Kansas City, MO 64108-2613
816-474-6550